

### **REMARKS**

Claims 21-46, 48-51, 53 and 54 are rejected. Claims 1-20, 47 and 52 are withdrawn from consideration. Claims 1-54 are subject to restriction and/or election requirement. Claim 48 has been amended. No claims have been canceled. Favorable reconsideration of the application in view of the following remarks is respectfully requested.

Appellant herewith submits a reply under 37 CFR 1.111.

#### **Rejection Of Claims 48 Under 35 U.S.C. §112:**

Claim 48 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 48 is confusing and inconsistent with independent claim 21. Claim 48 requires that the recording element is a single layer while claim 21 requires at least a support and an ink receiving layer. Clarification is requested.

Claim 48 has been amended to recite that the element "has" a single layer. Support for this clarification of the original wording of claim 48 is to be found on page 27 line 13 of the original application.

#### **Rejection Of Claims 21-46, 48-51, 53 and 54 Under 35 U.S.C. §103(a):**

Claims 21-46, 48-51, 53 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda et al. (Japanese Kokai Patent Application No. Hei 7[1995]137432) for reasons of record and for reasons given below.

Applicants' response to this rejection is to be found in Appellants' brief. Applicants again appeal this rejection.

Applicants respectfully submit that the Examiner's withdrawal from Appeal of this application and the reopening of prosecution represents to address a 112 issue in a dependent claim that was not at issue in this case represents an abuse of discretion, unnecessarily delaying the proceedings and adding cost to the Applicants in terms of additional time and administrative work, for no valid or justifiable reason.

It is believed that the foregoing is a complete response to the Office Action and that the claims are in condition for allowance. Favorable reconsideration and early passage to issue is therefore earnestly solicited.

Respectfully submitted,



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